IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

WEDNESDAY, THE 5TH DECEMBER 2007 / 14TH AGRAHAYANA 1929

MFA.No. 163 of 2002()

OPMV.424/1994 of MOTOR ACCIDENT CLAIMS TRIBUNAL, WAYANAD,KALPETTA

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APPELLANT: PETITIONER

VARGHESE S/O.LATE KURIAKOSE, AGED 70
YEARS, PATTUPALAYIL, POST MAKKIYAD,MANATHAVADY
TALUK, WAYANAD DISTRICT.

BY ADV. SRI.N.J.ANTONY

RESPONDENTS: RESPONDENTS

(*)1. MUSTAFFA AGE NOT KNOWN S/O.ABOOBACKER,
KODAKKAD POST, THARUVANA (DRIVER OF BUS
NO.KLW.3491.D.I.NO.1501/90W). (STRUCK OUT)

2. K.MOHAMMED AGE NOT KONWN S/O.BAPPU HAJI,
AYSHA MANZIL, THARUVANA,(OWNER OF THE BUS KLW 3491

3. UNITED INDIA INSURANCE CO.LTD.,KALPETTA
(LOCAL BRANCH OF THE UNITED INDIA INSURANCE CO.LTD
COIMBATORE, POLICY NUBER NOT KNOWN)

(*)THE NAME OF FIRST RESPONDENT IS STRUK OUT FROM THE ARRAY OF PARTIES VIDE ORDER DATED 23.11.2007 IN IA NO.2714/2007.

R3 BY ADV. SRI.P.MURALEEDHARAN

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 5/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. PADMANABHAN NAIR ,J.

M.F.A.No.163 of 2002

Dated, this the 5th day of December, 2007

JUDGMENT

The petitioner in O.P.(MV) No.424/1994 on the file of the Motor Accidents Claims Tribunal, Kalpetta is the appellant. Appellant who is a 77 year old man sustained injuries in a motor vehicle accident on 29.4.1994. He filed Original Petition claiming compensation impleading the owner, driver and insurer of the vehicle. Tribunal found that the accident occurred due to the negligence of the driver of the vehicle. It also found that the appellant is entitled to get compensation and awarded Rs.4,650/- as compensation. Alleging that the compensation awarded is inadequate the petitioner himself has filed this appeal.

2. The finding of the Tribunal that the accident occurred due to the negligence of the driver of the bus, the appellant is entitled to get compensation and the insurer is liable to indemnify the insured have become final and conclusive. So the only question arising for consideration is whether the appellant is entitled to get any amount as additional compensation.

3. The wound certificate produced by the appellant before the Tribunal shows that he sustained fracture of the left mandible and he was treated as inpatient for nine days in hospital. Tribunal took a view that he did not sustain any disability and awarded Rs.4,000/- only for pain and suffering. According to me the amount of compensation awarded for pain and suffering is low and the

Tribunal ought to have awarded a reasonable amount for discomfort and injury sustained by the appellant. So I am of the view that the appellant is entitled to get an additional compensation of Rs.10,000/- which will carry interest at the rate of 6% per annum.

In the result, appeal is allowed in part. An award is passed in favour of the appellant allowing him to recover an amount of Rs.10,000/- more with 6% interest per annum from the date of accident till the date of realisation. Third respondent insurer is directed to deposit the additional compensation also. On deposit the appellant can withdraw the entire amount.

K. PADMANABHAN NAIR,
JUDGE.

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K.PADMANABHAN NAIR, J.

M.F.A.No.163 of 2002

JUDGMENT

5th December, 2007.